their title to the proceeds of that interest as against him or his garnishing creditor.

Partition was at first considered a mere possessory action which left the title as it found it. *Pierce v. Oliver,* 13 Mass. 211; *Gourdie v. Northampton Water Co.,* 7 Pa. St. 238, and would not bar maintenance of writ of right between same parties. *Waller v. Foxcroft,* 1 Story's C. C. 475, but in most of the states it has come to involve the right as well as possession. *Whittemore v. Shaw,* 8 N. H. 397, and a decree is binding as to all the rights which the parties had in the premises at the time of partition, *Shaw v. Prettyman,* 1 Houston (Del.) 334; *Christy v. Spring Valley Water Works,* 68 Cal. 73, based on the theory of estoppel, *Kane v. The Rock River Canal Co.,* 15 Wis. 205; but this does not follow unless questions of title were put in issue. *Finley v. Cathcart,* 149 Md. 470. One exception seems to be Missouri, where judgment of partition is conclusive as to the title of the land which is the subject of the suit, *Ferder v. Davis,* 38 Mo. 115; but this is based on statutory requirements, compelling all titles to be set forth and requiring the court to declare interests of defendants as well as petitioners.

PRINCIPAL AND AGENT—RATIFICATION—PREJUDICE.—NORDEN V. DUKE, 104 N. Y. SUPP. 854.—*Held,* that where the unauthorized contract made by an agent in the name of his principal had been fully executed before the principal learned of the transaction, his failure to notify the parties who contracted with his agent that the transaction was unauthorized, did not render him liable, upon the theory of ratification, since they had not been prejudiced by his silence.

Where the act of the agent is unauthorized, the principal must acquiesce to be bound, *Ward v. Williams,* 26 Ill. 447; in order to raise the inference of acquiescence from silence of the alleged principal, it is necessary that he should be fully informed of the unauthorized transaction. *Un. G. M. Cr. v. Rocky Mt. Nat. Bank,* 2 Col. 565. On the subject, when silence will constitute a ratification, the courts are divided; some hold that the mere silence of a principal may, under some circumstances, be deemed a ratification of the acts of a pretended agent, yet a mere failure to disavow such acts instantly upon being approved of them, will not, *ipso facto,* be a ratification, *Swartwout v. Evans,* 37 Ill. 442; *Miller v. Excelsior Stone Co.,* 1 Ill. App. 273; but, others hold, that repudiation must be at once on receiving knowledge. *Kehlor, Updike & Co. v. Kemble,* 26 La. Ann. 713; *Bredin v. Dubarry,* 14 Serg. P. R. 27 (Pa.). A few courts have held that where the agent exceeds his authority, the principal to avoid the act is not obliged to give notice by repudiation, *Powell's Adm'r v. Henry,* 27 Ala. 612; but the better opinion is, that the principal must repudiate the unauthorized acts of his agent within a reasonable time after he has knowledge of them, or he will become bound. *Abbe & Colt v. Rood & Rood,* 6 McLean 106.

RAILROADS—ACCIDENTS—DUTY TO LOOK AND LISTEN.—ELGIN, J. & E. RY. CO. V. LAWLOR, 82 N. E. (ILL.) 407.—*Held,* that the failure of one driving across railroad tracks to look and listen is not negligence as a matter of law, as there may be circumstances excusing such failure.

A person about to cross a railroad track, to be free from negligence, must take such precautions as could be reasonably expected of an ordinarily prudent man, under like circumstances. *Chicago, etc., Co. v. Hedges, Admr.,* 105 Ind. 398. The failure of a person approaching a railroad track to look